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Low Income Immigration Assistance  
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UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF SAN FRANCISCO

**CV 10 2884**

Antolin Andrew Marks

Plaintif,

vs.

British Petroleum, An International  
Corporation Doing Business In The United  
States

Tony Hayward, CEO

Bryan Grote, CFO Defendants

Case No.:  
COMPLAINT FOR DAMAGES

BP Claim Number: **6866124244486**

**NEW NUMBER 6866124168801**

28 USC 1332 Diverse Citizenship  
For: Lost Income Through Deliberate  
Negligence; Violation of the Clean Air and  
Water Act;  
For: 1,522,280 in punitive, specific, and  
compensatory damages.  
**Jury Trial Demanded**

This is a complaint for damages

The Plaintiff is a natural person who currently resides in Washington State and operates a business in Northern California, Southern California and Washington State and previously gained seasonal income from the activities of shrimping in Louisiana and Mississippi during the Shrimp Season.

**SECTION ONE, DEFENDANTS**

The Plaintiff hereby brings suit against the following parties who are sued in their individual capacities:

VERIFIED COMPLAINT FOR DAMAGE

1. British Petroleum is an entity which does business in the United States and has offices in Alaska. Its headquarters is located in West Minister, United Kingdom.
2. Tony Hayward is the CEO of BP;
3. Bryan Grote is the CFO of BP

#### REQUEST FOR EXPEDITED ADR

Under the Local Rules of this Court, the Plaintiff urges the Court to set this matter for expedited Alternative Dispute Resolution given the nature of the case and the dire circumstances of the Plaintiff as he teeters on the edge of bankruptcy and insolvency.

#### FACTS

1. British Petroleum is a company which does business in the form of extraction of oil and natural gas from below the surface of the waters inside the United States and outside of the United States.
2. The form of method used by British Petroleum is deep water drilling.
3. Throughout the period of time from 1984 to the present, British Petroleum has received numerous warnings from the Federal Government Agencies which regulate its business.
4. British Petroleum has failed to heed those warnings and considers lawsuits and fines a cost of doing business instead of adhering strictly to the values that Americans place in their environment.
5. This Corporation produces Aviation Fuels, Castrol Motor Oil, Maintains ARCO Gas Stations and AM/PM convenience stores, and Aral Service Stations and solar panels. the revenue for 2009 for British Petroleum was 246.1 billion dollars. The operating income was 26.43 billion. Net income in the United States was 16.58 billion dollars. The net assets of British Petroleum is 236 billion. Its total equity in the United States is 101 billion dollars.
6. **BP plc** is a British-based global energy company which is the third largest energy company and the fourth largest company in the world. A multinational oil company ("oil major"), BP is the United Kingdom's largest corporation, with its headquarters in St James's, City of Westminster, London. BP America's headquarters is in the One Westlake Park in the Energy Corridor area of Houston, Texas. The company is among the largest private sector energy corporations in the world and is one of the six "supermajors" (vertically integrated private sector oil exploration, natural gas, and petroleum product marketing companies). The company is listed on the London Stock Exchange and the New York Stock Exchange and is also a constituent of the FTSE 100 Index.
7. BP has had more than its share of mishaps involving its core businesses.

- In December 1965, while the BP oil rig Sea Gem was being moved, two of its legs collapsed and the rig capsized. Thirteen crew were killed. Sea Gem was the first British offshore oil rig.
- In September 1999, one of BP's US subsidiaries, BP Exploration Alaska (BPXA), agreed to resolve charges related to the illegal dumping of hazardous wastes on the Alaska North Slope, for \$22 million. The settlement included the maximum \$500,000 criminal fine, \$6.5 million in civil penalties, and BP's establishment of a \$15 million environmental management system at all of BP facilities in the US and Gulf of Mexico that are engaged in oil exploration, drilling or production. The charges stemmed from the 1993 to 1995 dumping of hazardous wastes on Endicott Island, Alaska by BP's contractor Doyon Drilling. The firm illegally discharged waste oil, paint thinner and other toxic and hazardous substances by injecting them down the outer rim, or annuli, of the oil wells. BPXA failed to report the illegal injections when it learned of the conduct, in violation of the Comprehensive Environmental Response, Compensation and Liability Act.
- In March 2005, BP's Texas City, Texas refinery, one of its largest refineries, exploded causing 15 deaths, injuring 180 people and forcing thousands of nearby residents to remain sheltered in their homes. A large column filled with hydrocarbon overflowed to form a vapor cloud, which ignited. The explosion caused all the casualties and substantial damage to the rest of the plant. The incident came as the culmination of a series of less serious accidents at the refinery, and the engineering problems were not addressed by the management. Maintenance and safety at the plant had been cut as a cost-saving measure, the responsibility ultimately resting with executives in London.<sup>1</sup>
- The fall-out from the accident continues to cloud BP's corporate image because of the mismanagement at the plant. There have been several investigations of the disaster, the most recent being that from the U.S. Chemical Safety and Hazard Investigation Board which "offered a scathing assessment of the company." OSHA found "organizational and safety deficiencies at all levels of the BP Corporation" and said management failures could be traced from Texas to London.
- The company pleaded guilty to a felony violation of the Clean Air Act, was fined \$50 million, and sentenced to three years probation.
- On October 30, 2009, the US Occupational Safety and Health Administration (OSHA) fined BP an additional \$87 million — the largest fine in OSHA history — for failing to correct safety hazards revealed in the 2005 explosion.
- Inspectors found **270 safety violations** that had been previously cited but not fixed and **439 new violations**. BP is appealing that fine. (Good luck with that one given this disaster.) (see Environmental and Safety Record).
- In August 2006, BP shut down oil operations in Prudhoe Bay, Alaska, due to corrosion in pipelines leading up to the Alaska Pipeline. The wells were

leaking insulating agent called Arctic pack, consisting of crude oil and diesel fuel, between the wells and ice.

- BP had spilled over one million litres of oil in Alaska's North Slope. This corrosion is caused by sediment collecting in the bottom of the pipe, protecting corrosive bacteria from chemicals sent through the pipeline to fight this bacteria. There are estimates that about 5,000 barrels (790 m<sup>3</sup>) of oil were released from the pipeline. To date 1,513 barrels (240.5 m<sup>3</sup>) of liquids, about 5,200 cubic yards (4,000 m<sup>3</sup>) of soiled snow and 328 cubic yards (251 m<sup>3</sup>) of soiled gravel have been recovered. After approval from the DOT, only the eastern portion of the field was shut down, resulting in a reduction of 200,000 barrels per day (32,000 m<sup>3</sup>/d) until work began to bring the eastern field to full production on 2 October 2006.
- In May 2007, the company announced another partial field shutdown owing to leaks of water at a separation plant. Their action was interpreted as another example of fallout from a decision to cut maintenance of the pipeline and associated facilities.
- On 16 October 2007 Alaska Department of Environmental Conservation officials reported a toxic spill of methanol (methyl alcohol) at the Prudhoe Bay oil field managed by BP PLC. Nearly 2,000 gallons of mostly methanol, mixed with some crude oil and water, spilled onto a frozen tundra pond as well as a gravel pad from a pipeline. Methanol, which is poisonous to plants and animals, is used to clear ice from the insides of the Arctic-based pipelines.
- From January 2006 to January 2008, three workers were killed at the company's Texas City, Texas refinery in three separate accidents. In July 2006 a worker was crushed between a pipe stack and mechanical lift, in June 2007, a worker was electrocuted, and in January 2008, a worker was killed by a 500-pound piece of metal that came loose under high pressure and hit him.
- Four BP energy traders in Houston were charged with manipulating prices of propane in October 2007. As part of the settlement of the case, BP paid the US government a \$303 million fine, the largest commodity market settlement ever in the US. The settlement included a \$125 million civil fine to the Commodity Futures Trading Commission, \$100 million to the Justice Department, \$53.3 million to a restitution fund for purchasers of the propane BP sold, and \$25 million to a US Postal Service consumer fraud education fund.
- In May 2010, the Supreme Court of Arbitration of the Russian Federation agreed in support of the country's antimonopoly service's decision to a 1.1 billion Ruble fine (\$35.2 million) against TNK/BP, a 50/50 joint venture, for abusing antitrust legislation and setting artificially high oil products prices in 2008, TNK and BP declined comment.
- On April 1, 2009, a Bond Offshore Helicopters Eurocopter AS332 Super Puma ferrying workers from BP's platform in the Miller oilfield in the North Sea off Scotland crashed in good weather killing all 16 on board.



- And finally the disaster that seems to have no end: On April 20, 2010, a semi-submersible exploratory offshore drilling rig in the Gulf of Mexico exploded after a blowout and sank two days later, killing eleven people and causing a massive oil spill threatening the coast of Louisiana, Mississippi, Alabama, Texas, and Florida. The rig is owned and operated by Transocean Ltd<sup>[66]</sup> on behalf of BP, which is the majority owner of the oil field. At the time of the explosion, there were 126 crew on board; seven were employees of BP, 79 of Transocean, there were also employees of various other companies involved in the operation of the rig, including Anadarko, Halliburton and M-I Swaco. The company originally estimated the size of the leak at about 1,000 barrels a day but later accepted government estimates of a leak of at least 5,000 barrels per day (790 m<sup>3</sup>/d). On April 30, BP stated that it would harness all of its resources to battle the oil spill, spending \$7 million a day with its partners to try to contain the disaster. In comparison BP's 1st quarter profits for 2010 were roughly \$61M daily.
- BP was running the well without a remote control shut-off switch used in two other major oil-producing nations, Brazil and Norway, as a last resort protection against underwater spills. The use of such devices is not mandated by U.S. regulators. The U.S. Government gave the responsibility of the incident to BP and will hold it accountable for costs incurred in containing the situation.
- On May 11, 2010, Congress called the executives of BP, Transocean, and Halliburton to a hearing regarding the oil spill. **When probed for answers regarding the events leading up to the explosion, each company blamed the other. BP blamed Transocean who owned the rig, who then blamed the operators of the rig, BP. They also blamed Halliburton, who built the well casing.**
- Scientists have been requesting the right to monitor the amount of oil that is actually being released per day, but **"The answer is no to that," a BP spokesman, Tom Mueller, said on Saturday, May 15. 'We're not going to take any extra efforts now to calculate flow there at this point. It's not relevant to the response effort, and it might even detract from the response effort.'**
- Steven Wereley, an associate professor of mechanical engineering at Purdue University, analyzed videotape of the leak using particle image velocimetry and estimated oil flow rates at between 56,000 to 84,000 barrels per day (8,900 to 13,400 m<sup>3</sup>/d), or equivalent to one Exxon Valdez spill every 3.5 to 2.4 days
- A second, smaller leak has been estimated to be releasing 25,000 barrels per day (4,000 m<sup>3</sup>/d) by itself, suggesting that the total size of the leak may well be in excess of 100,000 barrels per day and became the largest offshore oil spill in US history.
- BP Amoco was a member of the Global Climate Coalition an industry organization established to promote global warming skepticism but withdrew in 1997, saying "the time to consider the policy dimensions of

climate change is not when the link between greenhouse gases and climate change is conclusively proven, but when the possibility cannot be discounted and is taken seriously by the society of which we are part. We in BP have reached that point."

- Under scrutiny after the Texas City Refinery explosion, two BP-owned refineries in Texas City, Texas, and Toledo, Ohio, were responsible for 97 percent (829 of 851) of willful safety violations by oil refiners between June 2007 and February 2010, as determined by inspections by the Occupational Safety and Health Administration. Jordan Barab, deputy assistant secretary of labor at OSHA, said "The only thing you can conclude is that BP has a serious, systemic safety problem in their company
  - According to the Center for Responsive Politics, BP is the United States' hundredth largest donor to political campaigns, having contributed more than US\$5 million since 1990, 72% of which went to Republicans.
  - In 2009 BP used nearly US\$16 million to lobby US Congress, breaking the company's previous record (from 2008) of US\$10.4 million.
  - BP has been criticized for its involvement with Baku-Tbilisi-Ceyhan pipeline, due to human rights, environmental and safety concerns.
  - In July 2006, a group of Colombian farmers won a multi million pound settlement from BP after the British oil and gas company was accused of benefiting from a regime of terror carried out by Colombian government paramilitaries to protect a 450-mile (720 km) pipeline.
  - There have been some calls<sup>[who?]</sup> for BP to halt its "Mist Mountain" Coalbed Methane Project in the Southern Rocky Mountains of British Columbia. The proposed 500 km<sup>2</sup> project is directly adjacent to the Waterton-Glacier International Peace Park. So far, BP has claimed that there is no risk of harming the environment.
  - BP is one of numerous firms who are extracting oil from Canadian oil sands, a process that produces four times as much CO<sub>2</sub> as conventional drilling.
  - The Cree aboriginal group describe BP as being complicit in 'the biggest environmental crime on the planet.
  - In 2008, BP was awarded a satirical prize, the "Emerald Paintbrush" award, by Greenpeace UK. The "Emerald Paintbrush" award was given to BP in order to highlight its alleged greenwashing campaign. Critics point out that while BP advertises its relatively minimal investment in alternative energy sources, the majority of its investments continue to go into fossil fuels.
  - BP was also one nominee for the 2009 Greenwash Awards.
8. This is a company which has shown a callous disregard for the environment, the laws which govern it, the lives of people who work for it and the livelihoods of people who depend upon the water within which BP fishes for oil.

9. Since the 20 April 2010 explosion of the *Deepwater Horizon* and subsequent oil spill disaster in the Gulf of Mexico, in which 11 people died, British Petroleum has been responsible for the Plaintiff's direct disaster to the extent that the Plaintiff has lost his home, has lost his income, has lost his automobile, and his prospects for the immediate future are decidedly bleak.
10. The disaster, involving a leaking deep water oil well, has devastated a vast area of the United States marine environment, has killed marine life, and has had a serious impact on the local fishing industry. Efforts at containing the spill has been, until recently, ineffective
11. It is the claim of the Plaintiff that British Petroleum and its managers knew or should have known of the potential for this type of disaster but failed utterly to do anything whatever to prevent such from occurring and did nothing to provide for contingency plans once something did occur.
12. To wit, it took weeks and over a month before BP was able to gain insight into controlling the spillage or oil into the waters. To this date, the oil is not properly contained although a majority of the oil is being collected by surface ships.
13. It is claimed that the BP disaster has devastated the Plaintiff and his finances.
14. The Plaintiff, because he depends directly upon seasonal shrimping for most of his income, has had a decidedly devastating time during the past month and a half.
15. In the first place, the Plaintiff lost his residence when he failed to pay the 850 rent. The management placed the Plaintiff into court and the judge ordered that the premises be returned to the landlord. The Plaintiff's automobile, a Mustang, was impounded and he was unable to gain the automobile through lack of funds. it is still currently at the impound. The Plaintiff's Durango was repossessed. He has since come up with the funds to gain the Durango after realizing that he could at least sleep in the Durango if push comes to shove. Upon leaving the residence, the Plaintiff was forced to give away thousands of dollars in equipment and furniture because he had no place to take them and could not afford storage for those items.
16. The Plaintiff, after he was evicted has found a temporary home with a friend.
17. **The Plaintiff learned from the White House that a claim should be made with BP after the Plaintiff contacted FEMA. The Plaintiff made a claim with BP and waited for someone to contact him. The Plaintiff contacted BP on four or more occasions and was continually told that an adjuster would call. By June of 2010 the Plaintiff's funds were at an end and he could not pay for his needs despite the fact that he sought alternative employment.**
18. Over the intervening weeks leading to June 1, 2010 the Plaintiff could gain no information from BP about the condition of his claim.
19. On or about June 1, 2010 the Plaintiff was informed that his claim was "lost". he was informed that many claims are lost by the computer that handles the claims which, to Plaintiff, was incredible. It is utterly unbelievable that a computer would actually lose the



claims when it concerns a matter of so vital importance to the Plaintiff's wellbeing, but that is what he was informed by BP.

20. The company again took the information and issued another claim number. This time an adjuster called and the Plaintiff dire circumstances and the fact that he would be evicted within eight days. The adjuster was not sympathetic and instead continued to demand dated documents which the Plaintiff did not have, or which would take months for the Plaintiff to gain a copy of. Plaintiff did attempt to gain records from Bourgeois Charters but was told by Bourgeois that their records were lost in the last hurricane and they have no duplicates.
21. It is the belief of the plaintiff that BP intends to give him the royal run around instead of taking care of their responsibilities thrust upon them through their ignorance and their deliberate negligence.
22. When the Plaintiff was given the final deadline to pay the sums demanded by the manager of his apartment, on June 8th, 2010 he contacted BP to find out if they could provide a provisional payment to allow him to pay his rent. By then the sum included 850, for the rent and 70 dollars in fees for the rent of May, 831 for the Court Costs, and 850 for the month of June. The response was that "BP does not provide provisional payments." Plaintiff was given a list of about twenty five different documents that BP demanded before it would unleash one dime. Items that were impossible for the Plaintiff to gain. No one believed, and certainly not the Plaintiff, that this would occur and he did not think that he should save the licenses from the years before (even though the licenses was not in his name alone), or the tickets from the years before, or the catch slips from the year before just in case BP spilled oil in the shrimping areas.
23. Plaintiff has been devastated.
24. Plaintiff gained a loan of 920. from Jan Diego Moreno Garcia with which he gained the Durango from the Dealer.
25. Plaintiff gained income from shrimping with a variety of persons including Abololaye Diallo and Francisco Zapata. Each year it is with different persons. They had been long time shrimpers who would go from Washington to East Biloxi, Mississippi or Louisiana or to Alaska to fish during the season. . This venture meant that before the season began the Plaintiff would make a decision of where he would go that season. He would make the plans, make the arrangements, contact the Louisiana Department of Wildlife and Fisheries and gain a license that would allow him to fish or shrimp for the season. A boat was usually chartered and the Plaintiff would trawl for shrimp in Barataria Bay which is usually rich in shrimp during the shrimp season. In this season, the area is devastated by the disaster caused by BP's negligence.
26. In Louisiana the amount of licenses issued to non-residents has dwindled by 700%. In Mississippi the amount of licenses has dwindled to 102 for the season.
27. The Plaintiff has incurred loss of income in the form of income he would have received from the shrimping venture. The mean income of the Plaintiff through a season of shrimping would be between 41,000 and 62,000 depending upon the weather, availability of the boat for the entire season or whether it was only available for part of the season, depending upon the market for the product, and depending upon the availability of



resources to maintain the catch. On a good day the Plaintiff could harvest sufficient shrimp to allow for receipts of 1,200 to 1,800. One thing is unfortunate is that the Plaintiff principally marketed his catch to places such as Golden Palace in Los Angeles which sometimes would take the entire catch. Arrangements, though, for practical reasons were usually made in cash terms. Nonetheless, Plaintiff has secured the promise of the owner that he would testify at least to the fact that he has purchased shrimp from the Plaintiff.

28. At the instant time, the Plaintiff continues to be the victim of pressures created by BP. Because the Plaintiff was evicted from his apartment, a space he also used for his other business interest, Low Income Immigration Assistance, the Plaintiff has been completely displaced. His telephone numbers have changed and has not been put in at the new residence through lack of money to pay for the installation. On June 26, 2010 the Plaintiff must pay 350. for his Durango. The Plaintiff's Mustang remains in the hands of the impound where the fee is about 1541 to date. The Plaintiff is unable to secure monies from the government given the fact that his businesses were primarily independent and self operated. The SBA has indicated that they are unable to provide assistance and has referred the Plaintiff back to BP until such time that the federal government declares the disaster to be a disaster. On or about June 12, 2010 the Plaintiff had a stress related stroke that leaves the left side of his face to be mini-paralyzed with the vocal distortion being prevalent. The doctors have indicated that there is cause for concern that another stroke would strike the Plaintiff and the Plaintiff believes that the cause is the stress from the situations.
29. It is the belief that the British Petroleum Company must be held accountable for their failure to act during the time of April 24, 2010 and June 8th, 2010 when the Plaintiff sought their assistance only to learn that they had misplaced his claim. It is the claim that BP does not care about the environment and profit is its main interest whether that profit comes at the expense of the environment, persons like the Plaintiff, or the lives of the persons who have been killed through the company's negligence.
30. Plaintiff seeks a sum of 1,480,000 in punitive damages.
31. Plaintiff seeks a sum of 62,000 in compensatory damages for the lost income from 2010.
32. Plaintiff seeks a speculative sum of 62,000 for the damages if the shrimping lanes remain damaged in 2010.
33. Plaintiff seeks specific damages in the amount of 280. the cost of the trip to Louisiana on April 18th, 2010.
34. As a result of the lackadaisical attitude held by British Petroleum against the environment, British Petroleum has carried out their business in a hap-hazard manner where they were aware that such behavior would ultimately lead to oil spills, accidents, and oil slicks which, invariably, would hurt commerce in the fishing lanes of Louisiana and Mississippi and they have totally disrupted the Plaintiff's life.

To put the arrogance of BP at square and center, the Plaintiff offers the following showing that although locations for the Claims Centers are publicized, there are no phone numbers and no emails, or faxes included making it extremely difficult to get in touch with any one facility except by mail. When one calls the 1800 number, one is told that someone would call them back and, for the Plaintiff, it has taken weeks.

#### **Claims Office Locations**

#### **ALABAMA**

Foley, AL (Orange Beach/Gulf Shores/Bone Secour)  
1506 North McKenzie Street (HWY 59)  
Suite 104  
Foley, AL 36535

Bayou LaBatre  
N. Wintzell Avenue  
Bayou La Batre, AL 36509

Gulf Shores / Orange Beach, AL (Baldwin County)  
Scott Lewis, Manager  
24039 Perdido Beach Blvd  
Suite 1  
Orange Beach, AL 36561

#### **FLORIDA**

Pensacola, FL (Escambia County)  
3960 Navy Blvd  
Suite 16-17  
Pensacola, FL 32507

Gulf Breeze, FL (Santa Rosa County)  
5668 Gulf Breeze Pkwy  
Unit B-9  
Gulf Breeze, FL 32563

Ft. Walton Beach, FL (Okaloosa County)  
348 SW Miracle Strip Pkwy  
Suite 13  
Fort Walton Beach, FL 32548

Crawfordville, FL (Wakulla County) – Will Open 5/20/10  
3010 Crawfordville Hwy  
Suite A&B  
Crawfordville, FL 32327

Apalachicola, FL (Franklin County) – Will Open 5/19/10  
Brion Gregore, Manager  
194 14th Street  
Suite 105  
Apalachicola, FL 32320

Port St. Joe, FL (Gulf County) – Will Open 5/18/10  
Charles Mayo, Manager  
106 Trade Circle  
Suite A  
Port St. Joe, FL 32456

Panama City, FL (Bay County)  
Curtis Wittich, Manager  
7938 Front Beach Rd  
Panama City Beach, FL 32408

Santa Rosa Beach, FL (Walton County)  
Gordon Porter, Manager  
5008 US Hwy 98W  
Unit 6&7  
Santa Rosa Beach, FL 32459

#### **LOUISIANA**

New Orleans, La.  
4375 Michoud Blvd.  
New Orleans, LA 70129

Venice - Opened 5/8/10  
41093 Hwy La 23  
Boothville, LA 70038

Saint Bernard – Opened 5/7/10  
1345 Bayou Rd  
Saint Bernard LA 70085

Pointe a la Hatch  
1553 Hwy 15  
(Council District #1 Office)  
Pointe-A-LA-Hatch, LA 70040

Gretna/Belle Chasse  
2766 Belle Chasse Hwy  
Belle Chasse, LA 70037

Grand Isle  
3811 LA1 (Community Center)  
Grand Isle, LA 70358

Houma, LA (Terrebonne Parish)  
Julius Herbert, Manager

Plaza Caillou Shopping Center  
814 Grand Caillou Rd  
Suite 2 & 3  
Houma, LA 70363

Cut Off, LA (Lafouche Parish)  
Carlo Pedalino, Manager  
Tarpon Heights Shopping Center  
Unit 2  
16263 E. Main Street  
Cut Off, LA 70345

BP Claims and Community Outreach Center  
St. Tammany Parish  
2040 Gause Blvd., Suite 10  
Slidell, LA 70461  
Telephone: 985.649.1942

MISSISSIPPI

Biloxi  
920 Cedar Lake Rd  
Suite K  
Biloxi, MS 39532

Pascagoula, MS  
5912 Old Mobile Hwy.  
Suite. 3  
Pascagoula, MS 39563

Bay St. Louis, MS (Hancock County) – Will  
Open 5/18/10  
Scott Niolet, Manager  
1171 Hwy 90  
Bay St. Louis, MS 39520

As a final kick in the pants, on the date this matter was typed, 6/21/10, Plaintiff called BP on the telephone and was informed that they had lost the second claim as listed above. However, the man was able to recover the first claim and that number has been ended.

Submitted 6/20/10

ss//Antolin Andrew Marks